

I. Administrative Information

CASE NUMBER: PS2016-016

TO: Disciplinary Action Board

SUBJECT: Summary of Investigation

DATE: February 10, 2017

COMPLAINT: 105 (IV) (G) (3) Rank Structure and Responsibility
313 (IV) (A) (1) Obedience to Orders
313 (IV) (A) (4) Performance of Duty
313 (IV) (A) (7) Respect for Commanding Officers, Other Employees
and Citizens
313 (IV) (A) (15) Conduct Unbecoming
313 (IV) (A) (40) Use of Force

COMPLAINANT:

A

ACCUSED: Multiple

INVESTIGATOR: Sergeant

S1

Basis for Investigation:

It is alleged between 2012 and 2016 some deputies assigned to the Intake and Release Section of the El Paso County Jail engaged in a competition to determine which of them were involved in the most Use of Force (UOF) events. The term "Fight Club" was used by the complainant.

It is further alleged that on at least one occasion a deputy with the most UOF was awarded a cake solely for her high number of UOF events.

In addition, still photo images of inmates being forcibly subdued by deputies were circulated among different Intake and Release personnel. Those images bore superimposed captions intended to be humorous. Some Intake and Release supervisors were said to have been aware of the competition to some degree and some supervisors were recipients of the photo images.

Based on this complaint, Undersheriff [REDACTED] U [REDACTED] directed the Professional Standards Unit to conduct an investigation to gather facts surrounding the aforementioned allegations. Sergeant [REDACTED] S1 [REDACTED] was assigned as lead investigator.

II. Summary of Investigation:

There were 15 deputies who were identified as having been involved to some degree, including, two Lieutenants and five Sergeants.

Inspector [REDACTED] In [REDACTED] and Sergeant [REDACTED] S1 [REDACTED] conducted 17 interviews involving the 15 sworn employees and two deputy witness interviews. Sergeant [REDACTED] S1 [REDACTED] had Information Technologies (IT) recover personal files from Deputy Grady's computer accounts. It should be noted, nothing of evidentiary value was found in Grady's accounts. Two separate UOF complaints involving Deputy Jake Smith (PS2016-023), and Deputy Ryan Sanders (PS2016-031) were discovered during this investigation. These two cases are not directly related to this case.

After interviewing all involved parties, no evidence was found to show there was any type of "fight club." All deputies interviewed stated they had never heard the term "fight club." According to deputies, when supervisors heard deputies discussing UOF issues they quickly shut down the discussion if it were inappropriate.

It seems the cause of the UOF discussions amongst deputies was due to the Early Warning System (EWS) report in the Jail Management System (JMS). Starting in 2012, some supervisors in Intake and Release had reviewed the UOF statistics and communicated to deputies they needed to be careful about the number of UOF in which they were involved. The deputies then talked amongst themselves and questioned how could they be in trouble for what they considered as just doing their job. Several deputies interviewed told me they would come up with ways to minimize the involvement of deputies who had a high number of UOF incidents when possible so they would not get in trouble for too many UOF incidents. The Intake and Release deputies then began to joke with each other about their UOF statistics.

There was only one occasion in which a deputy was rewarded for UOF statistics. In late 2014, Deputy Sandra Rincon was given a cake by her fellow deputies to commemorate her getting 50 UOF for 2014. Deputy Rincon told me the cake was just a joke. The 50 UOF cake coincided with her birthday in which a separate cake was given on the same day. Deputy Rincon told me Deputy Farrell had brought the cake in and Deputy Grady took pictures of the cake presentation. The pictures were disseminated to other Intake and Release deputies. See attached pictures.

Deputy Sean Grady was believed to be one of the initial deputies involved in tracking UOF statistics. I interviewed him and asked him to explain his involvement. Deputy Grady told me he probably accessed the UOF statistics in the Jail Management System (JMS) the most, and he updated the other deputies on their UOF statistics. Deputy Grady told me he believed his high numbers of UOF are directly related to his working

the midnight shift. He told me the top five deputies in UOF statistics all worked on the midnight shift in Intake and Release.

I also interviewed Deputy Jake Smith. Deputy Smith told me he had recently been transferred out of Intake and Release by Commander [REDACTED] C1. When asked why, Deputy Smith stated Commander [REDACTED] C1 told him he was worried about his decision making so he was putting him in a spot where he would be less of a liability to the office.

Deputy Smith further stated he and Deputy Ryan Sanders had been verbally counseled by Sergeant Klug in reference to them discussing where they ended up in the UOF standings. Sergeant Klug had overheard them discussing their UOF statistics.

Deputy Smith told me he and other deputies were talked to by a co-worker, Deputy [REDACTED] D4 about keeping track of their UOF statistics and how bad it would look if they had to go to court and testify. Deputy Smith stated after the talk by Deputy [REDACTED] D4, deputies talking about UOF statistics went down.

I asked Deputy Smith to identify the "ringmaster." Deputy Smith stated in 2015 he kept track of the numbers (UOF). Deputy Smith stated Deputy Grady was the one who had shown him the UOF report.

Deputies Smith and Sanders were overheard talking to reporter Diane Derby from KKTU Channel 11 at the EPSO awards banquet this year (2016). Deputy Smith stated Deputy Sanders was telling Ms. Derby what it was like to work in the jail. Deputy Sanders also told Ms. Derby that Deputy Smith was #1 in UOF and he (Sanders) was #2 and two other people on midnight shift were also in the top 10 in UOF. Deputy Smith stated Deputy Sanders was just giving Ms. Derby perspective on what they do but said he was upset with Deputy Sanders for talking about rankings. Deputy Smith stated he knew this sounds terrible without the perspective of actually being there.

Inspector [REDACTED] In interviewed Deputy Sanders. Deputy Sanders admitted to taking part in discussions with Deputies Grady, Smith and Burgess. Deputy Sanders also recalled being counseled by Deputy [REDACTED] D4 about the inappropriateness of the conversations and stopped for awhile. He soon reengaged in the conversations.

Inspector [REDACTED] In interviewed Deputy [REDACTED] D4. Deputy [REDACTED] D4 made reference to what he called the Mid-Night Fight Club. He identified Deputies Grady, Burgess, Sanders, Smith and Dawson as deputies who "openly bragged about their use of force numbers and alternately speaking of being the winner."

Deputy [REDACTED] D4 heard comments such as, "I'm in the lead" and "I'm going to beat your record from last year."

Deputy [REDACTED] D4 said the following about each member of the Mid-Night Fight Club:

Regarding Burgess, [D4] said that after describing an incident where [D4] punched an inmate in the head, Burgess said something to the effect of, "I didn't know we were allowed to hit them in the face; I can't wait until I get to hit someone in the face."

Burgess was also alleged to have said something about having "pent up" energy and hoping that an inmate was going to give him a chance to release that pent up energy. On another occasion, he talked about taking "...someone's finger and putting it in his pocket."

Regarding Sanders, [D4] said that he would openly refer to getting ... "another one for my count" or adding to his count, etc. [D4] said at one point, he suggested that if he ([D4]) were ever called to court regarding a "use of force" by Sanders, he'd have to testify to his aggressive attitude and enthusiasm about adding to his count. [D4] said he told Sanders, "You've got to stop talking like that."

[D4] said that Sanders reacted favorably, stating something to the effect of, "I never thought of it that way," but gradually resorted by to his old ways.

Regarding Smith, [D4] said that they were Academy classmates, and that he had told Smith "You're going down the wrong road." [D4] tried to tell Smith that he ([D4]) knew of Chief Deputy [D36] values from his time with the Fountain PD and he knew that he ([D36]) would not approve of such boasting and bravado regarding their respective uses of force. He said Smith "Just blew it off."

Regarding Dawson, [D4] simply claimed he said "...the same thing to Dawson."

He stated that he did not even attempt to have that conversation with Grady. He acknowledged that Grady was a "senior deputy" and that he served as the "right hand" of the sergeants. He specifically pointed out that Grady made schedules and gave assignments, but he thought that Grady was "immature," and [D4] expressed some animosity toward Grady. He added that "I knew he wouldn't listen to me anyway."

I interviewed Deputy Bret Dawson. Deputy Dawson admitted to looking up statistics but denied there ever being a competition. Deputy Dawson also stated deputies would talk about UOF frequently.

Investigators were unable to find any type of evidence there was a "Fight Club". All parties that were interviewed denied ever hearing the term "Fight Club" until they were briefed by Chief [B1] and Commander [C1] prior to the Professional Standards Unit taking the case.

All of the supervisors and deputies interviewed denied a "competition" of UOF ever took place with the exception of Deputy [D4] (witness).

None of the deputies interviewed denied talking about UOF. It is appeared a small number of deputies talked about and took the UOF more seriously than others. Also,

Deputies Smith and Sanders discussion with Ms. Derby was not appropriate as Deputy Smith acknowledges.

There was no type of evidence found that deputies engaged in UOF in order to raise their statistics.

The only Excessive UOF observed or reported by Intake and Release deputies involved ex-Deputy ^{D2} [REDACTED].

All deputies, with the exception of Deputy ^{D4} [REDACTED] spoke highly of their supervisors and all agreed had their supervisors known about discussions regarding UOF numbers, they would have put a stop to it and fact had on at least one occasion.

Other than the two cases previously identified, no evidence was found that Intake and Release deputies were involved in a UOF incident unless it was necessary.